

**SUMMARY
SB 308**

BUSINESS & LABOR

EXHIBIT NO. 15
DATE 2-3-09
BILL NO. SB 308

1. **Section 1 (new) of the bill gives the Department authority to conduct annual surveys to calculate the standard prevailing rate of wages and fringe benefits for building construction services.** The language outlines the survey methodology to be used for obtaining wage rate information on an annual basis for building construction. The survey methodology and mechanism to obtain the wage rate information currently exists in statute at 18-2-401 (13) (a), Section 11 of the bill. The language, as it currently exists is being deleted from Section 11 of the bill and added back in at Section 1 (new) of the bill so that the process is uniform for each category of prevailing wage rate setting.
2. **Section 2 (new) of the bill gives the Department authority to conduct annual surveys to calculate the standard prevailing rate of wages and fringe benefits for heavy construction services and for highway construction services.** The language outlines the survey methodology to be used for obtaining wage rate information on an annual basis, or allows the department to adopt by reference through rulemaking the rates established by the U. S. department of labor under the federal Davis-Bacon Act, 29 CFR 1 et seq., for projects in Montana. The survey methodology and mechanism to obtain the wage rate information currently exists in statute at 18-2-401 (13) (a), Section 11 of the bill. The language, as it currently exists is being deleted from Section 11 of the bill and added back in at Section 2 (new) of the bill so that the process is uniform for each category of prevailing wage rate setting.
3. **Section 3 (new) of the bill gives the Department authority to conduct annual surveys to calculate the standard prevailing rate of wages and fringe benefits for nonconstruction services.** The language outlines the survey methodology to be used for obtaining wage rate information on an annual basis for nonconstruction services. The survey methodology and mechanism to obtain the wage rate information currently exists in statute at 18-2-401 (13) (a), Section 11 of the bill, except that currently the survey is biennial for nonconstruction services. The language, as it currently exists is being deleted from Section 11 of the bill and added back in at Section 3 (new) of the bill so that the process is uniform for each category of prevailing wage rate setting.
4. **Section 4 (new) of the bill provides for apprentices whose indenture agreement is registered with the department under Title 39, chapter 6, or recognized by the department as being registered with an appropriate registration agency of another state or federal government to be paid the percentage of the standard prevailing rate of wages provided for in the apprenticeship standards applicable to that apprentice.** Ensures that a registered apprentice must be paid the percentage of the standard prevailing rate of wages provided for in the apprenticeship standards applicable to that apprentice, and requires the full amount of fringe benefits to be paid while the apprentice is working on a public works contract.

5. **Section 5 (new) of the bill provides for wage rate adjustments of 3% on multiyear public works contracts that by the terms of the original contract calls for more than 30 months to fully perform. The adjustments are to be made 12 months after the date of the award and applied every 12 months for the term of the contract.** This ensures that workers performing work on a public works contract that by the terms of the contract will be for more than 30 months receive a cost of living adjustment of 3% to the standard prevailing rate of wages they are paid 12 months after the date of the contract award and every 12 months for the terms of the contract. Any increase is the sole responsibility of the contractors and subcontractors. This provision provides consistency for all contractors bidding on a project to uniformly anticipate required wage increases for multi-year projects.

6. **Sections 6 through Section 10 of the bill amends cross references in various tax codes that require payment of the prevailing wage to be eligible for various tax reductions, tax incentives or tax abatements.** These provisions allow for class fourteen property to be taxed at 3% of its market value; class fifteen property to be taxed at 3% of its market value; class sixteen property to be taxed at 2.25% of its market value; provides for a tax abatement of certain clean coal and renewable energy research and development; and provides a tax incentive for production of ethanol. The condition for receiving the tax reduction, incentive or rebate is that the prevailing rate of wages must be paid during the construction phase of the projects that are affected.

7. **Section 11 of the bill amends section 18-2-401, MCA.** Cleans up duplication of language within the Public Contracts Act; adds the definition of fringe benefits; strikes the definition of "standard prevailing rate of wages" or "standard prevailing wage" in 18-2-401 (13) that has been replaced by new sections 1, 2, and 3. New sections 1 (building construction services), 2 (heavy and highway construction), and 3 (nonconstruction services) set forth the same procedures as the strike out language on pages 15 and 16 in an easier to understand format. The only substantive change is to provide that the survey for nonconstruction services will be conducted annually.

8. **Section 12 of the bill amends section 18-2-401, MCA.** This change is a language clean up and allows the Department the ability to determine the standard prevailing rate of wages applicable to public works contracts by using collective bargaining agreements and other information on which rates are based, and setting the rates equal to but not greater than the highest applicable rate negotiated under existing and current collective bargaining agreements. Identifies for the Department a maximum rate which cannot be exceeded when establishing the standard prevailing rate of wages payable for work on public works contracts.

9. **Section 13 of the bill amends section 18-2-403, MCA.** This change is a language clean up and strikes the repetitive reference of fringe benefits to health and welfare and pension contribution meeting the requirements of the Employment Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor within this section and moves the definition of fringe benefits to section 18-2-401 (8), MCA.

10. **Section 14 of the bill amends 18-2-407 MCA.** This change is a language clean up, inserting "rate of wages" for wages; striking duplicative language; and striking the reference that an appeal of a hearings officer's decision goes to district court rather than to the Board of Personnel Appeals, as provided in Title 39, chap. 3, part 2.

11. **Section 15 of the bill amends 18-2-411, MCA.** This change allows the commissioner to divide the state into no more than 10 prevailing wage rate districts for building construction services and nonconstruction services and is a language clean up. This gives flexibility in adjusting the prevailing wage rate districts (following the rulemaking procedures) to accurately and efficiently determine the standard prevailing rate of wages to be paid employees. The current survey methodology does not generate enough data in several of the districts to set a rate based on the survey data. All of the parties affected by the prevailing wage (contractors, subcontractors, contracting agencies and labor representatives) will have the opportunity to help determine in the rule making process what is the appropriate number and boundaries for prevailing wage rate districts.

12. **Section 16 of the bill amends 18-2-412, MCA.** This change strikes the repetitive reference of fringe benefits to health and welfare and pension contribution meeting the requirements of the Employment Retirement Income Security Act of 1974 and other bona fide programs approved by the United States department of labor within this section and moves the definition of fringe benefits to section 18-2-401 (8), MCA.

13. **Section 17 of the bill amends 69-3-2005, MCA.** Requires all contractors to pay the standard prevailing rate of wages for heavy construction on contracts signed for projects located in Montana as provided in section 2, and cleans up obsolete dates.

14. **New Section 18 of the bill is the codification instructions**

15. **New Section 19 of the bill is the saving clause**

16. **New Section 20 of the bill is the effective date, July 1, 2009.**

FEBRUARY 3, 2009
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24.17.107 PREVAILING WAGE DISTRICTS ESTABLISHED

(1) Pursuant to 18-2-411 , MCA, the commissioner has established ten districts for the purpose of setting the standard prevailing rate of wages for construction services (other than heavy construction or highway construction) and nonconstruction services. Heavy construction and highway construction rates are set on a state-wide basis, as provided by 18-2-411 , MCA.

(2) The districts are composed of the following counties:

- (a) District 1: Flathead, Lake, Lincoln, and Sanders;
- (b) District 2: Mineral, Missoula, and Ravalli;
- (c) District 3: Beaverhead, Deer Lodge, Granite, Madison, Powell, and Silver Bow;
- (d) District 4: Blaine, Cascade, Choteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole;
- (e) District 5: Broadwater, Jefferson, Lewis and Clark, and Meagher;
- (f) District 6: Gallatin, Park, and Sweet Grass;
- (g) District 7: Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, and Wheatland;
- (h) District 8: Big Horn, Carbon, Rosebud, Stillwater, Treasure, and Yellowstone;
- (i) District 9: Daniels, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, and Valley;
- (j) District 10: Carter, Custer, Dawson, Fallon, Prairie, Powder River, and Wibaux.

History: 18-2-431, MCA; IMP , 18-2-411, MCA; NEW , 2002 MAR p. 2446, Eff. 9/13/02.

24.17.121 ESTABLISHING THE STANDARD PREVAILING RATE OF WAGES AND FRINGE BENEFITS

(1) The commissioner shall establish the standard prevailing rate of wages and fringe benefits for the various occupations in each district. Except as used in (2) and (3), the term "prevailing rate of wages" includes both wages and fringe benefits.

(2) Based on survey data collected by the department for each district, the commissioner will compile wage rate information for a given occupation that reflects wage rates actually paid to workers engaged in public works or commercial projects. The department will survey those construction contractors who appear on a list of contractors registered pursuant to Title 39, chapter 9, MCA, as of October 22 of that year, with respect to those workers performing work according to commercial building codes. Wage rates for each occupation will be set using the following procedure:

(a) If a minimum of five or more workers is reported for the occupation within the district, and 50 percent or more of those workers receive the same wage, that rate is the district prevailing wage rate, provided that the rate does not exceed the collectively bargained rate for that occupation in that district. As provided by 18-2-402, MCA, the prevailing wage rate cannot exceed the collectively bargained wage rate.

(b) If five or more workers are reported for the occupation within the district, but 50 percent of those workers are not paid the same rate, the weighted average wage rate, weighted by the number of workers, is the district prevailing wage rate, provided that the rate does not exceed the collectively bargained rate for that occupation in that district. As provided by 18-2-402, MCA, the prevailing wage rate cannot exceed the collectively bargained wage rate.

(c) If less than five workers are reported for the occupation within the district, the district prevailing wage rate is the collectively bargained rate for that occupation in that district.

(d) If a collective bargaining agreement does not exist for the occupation in that district, a weighted average wage rate for the district weighted by number of workers will be computed using data submitted from all contiguous districts. Districts and their contiguous districts are as follows:

(i) District 1 (Flathead, Lincoln, Sanders, Lake counties) : districts 2, 3, 4, and 5.

(ii) District 2 (Missoula, Ravalli, and Mineral counties) : districts 1 and 3.

(iii) District 3 (Granite, Powell, Deer Lodge, Silver Bow, Madison, and Beaverhead counties) : districts 1, 2, 5, and 6.

(iv) District 4 (Cascade, Choteau, Toole, Liberty, Glacier, Pondera, Teton, Hill, and Blaine counties) : districts 1, 5, 7, and 9.

(v) District 5 (Lewis and Clark, Broadwater, Meagher, and Jefferson counties) : districts 1, 3, 4, 6, and 7.

(vi) District 6 (Gallatin, Park, and Sweet Grass counties) : districts 3, 5, 7, and 8.

(vii) District 7 (Wheatland, Fergus, Musselshell, Petroleum, Golden Valley, and Judith Basin counties) : districts 4, 5, 6, 8, and 9.

(viii) District 8 (Stillwater, Yellowstone, Rosebud, Treasure, Big Horn, and Carbon counties) : districts 6, 7, 9, and 10.

(ix) District 9 (Valley, Phillips, Sheridan, Daniels, Garfield, McCone, Richland, and Roosevelt counties) : districts 4, 7, 8, and 10.

(x) District 10 (Carter, Wibaux, Dawson, Fallon, Prairie, Custer, and Powder River counties) : districts 8 and 9.

(e) If contiguous district data do not sum to a minimum of five workers, a statewide weighted average wage rate will be calculated for the occupation.

(f) If a minimum of five workers is not reported for the occupation in the entire state, no rate will be established for that occupation.

(3) Based on survey data collected by the Department of Labor and Industry, for each district, the commissioner will compile fringe benefit information for a given occupation by district that reflects fringe benefits actually paid to workers engaged in public works or commercial projects. The department will survey those construction contractors who appear on a list of contractors registered pursuant to Title 39, chapter 9, MCA, as of October 22 of that year, with respect to

those workers performing work according to commercial building codes. A single fringe benefit rate for each occupation will be set for bona fide benefits paid or contributed to approved plans, funds or programs for health insurance, life insurance, pension or retirement, vacations, holidays and sick leave, using the following procedure:

(a) If a minimum of five or more workers is reported for the occupation within the district, and 50% or more of those workers receive the same dollar value of fringe benefits, that rate is the district prevailing fringe benefit rate, provided that the rate does not exceed the collectively bargained rate for that occupation in that district. As provided by 18-2-402, MCA, the prevailing fringe benefit rate cannot exceed the collectively bargained rate.

(b) If five or more workers are reported for the occupation within the district, but 50 percent of those workers are not paid the same fringe benefit rate, the weighted average fringe benefit rate, weighted by the number of workers, is the district prevailing fringe benefit rate, provided that the rate does not exceed the collectively bargained rate for that occupation in that district. As provided by 18-2-402, MCA, the prevailing fringe benefit rate cannot exceed the collectively bargained rate.

(c) If less than five workers are reported for the occupation within the district, the district prevailing fringe benefit rate is the collectively bargained fringe benefit rate for that occupation in that district.

(d) If a collective bargaining agreement does not exist for the occupation in that district, but a minimum of five workers are reported in the combined contiguous districts, a weighted average fringe benefit rate for the district, weighted by the number of workers, will be computed using data submitted from all contiguous districts. Districts and their contiguous districts are the same as provided by (2) (d) of this rule.

(e) If contiguous district fringe benefit data do not sum to a minimum of five workers, statewide weighted average fringe benefit rates will be calculated for the occupation.

(f) If a minimum of five workers are not reported for the occupation in the entire state, no fringe benefit rate will be established for that occupation.

(4) The commissioner may request clarification, additional information or independent verification of information submitted pursuant to this rule.

(5) The commissioner will annually incorporate the federal Davis-Bacon Act wage rates established for Montana as the state heavy and highway construction rates. Building construction services prevailing wage rates will be updated annually, and nonconstruction services will be updated in odd-numbered years.

(6) In the event of an incorrect prevailing wage rate being published, the commissioner will review additional data submitted to determine that the rate is incorrect. If found to be incorrect, the prevailing wage rate will revert to the last published rate that was adopted via the rulemaking and public hearing process. For temporary rates which have not been adopted via the rulemaking and the public hearing process, an amended rate will be calculated based on information collected and submitted.

(7) It is the obligation of any person having possession or knowledge of wage rate information, including collective bargaining agreements that the commissioner should consider, or it is desired that the commissioner consider, to timely deliver such information to the commissioner.

(8) Wage information may be considered by the commissioner only if such information is delivered to the Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624-1728, within the time set by the commissioner.

(9) Within each district, the commissioner considers current wage rate information on file and sets the standard prevailing rate of wages for each craft, trade, occupation, or type of workers. Except as provided in (2), all rates shall be adopted in accordance with ARM 24.17.127.

History: 18-2-409, 18-2-431, 39-3-202, MCA; IMP, 18-2-401, 18-2-402, 18-2-403, 18-2-411, MCA; NEW, 1985 MAR p. 1859, Eff. 11/30/85; AMD, 1986 MAR p. 44, Eff. 1/16/86; AMD, 1988 MAR p. 2378, Eff. 12/1/88; AMD, 1989 MAR p. 665, Eff. 5/26/89; AMD, 1998 MAR p. 1740, Eff. 6/26/98; AMD, 1998 MAR p. 2585, Eff. 9/25/98; AMD, 2002 MAR p. 1985, Eff. 8/1/02; AMD, 2002 MAR p. 2446, Eff. 9/13/02; TRANS, from ARM 24.16.9003, Eff. 9/13/02.

24.17.127 ADOPTION OF STANDARD PREVAILING RATE OF WAGES

(1) The commissioner's determination of minimum wage rates, including fringe benefits for health and welfare, pension contributions and travel allowance, by craft, classification or type of worker, and by character of project, are adopted in accordance with the Montana Administrative Procedure Act and rules implementing such act.

(a) A notice of proposed adoption of the commissioner's determination is published in the Montana Administrative Register 30 to 45 days prior to adoption according to regular publication dates scheduled in ARM 1.2.419.

(b) Adopted wage rates are effective until superseded and replaced by a subsequent adoption.

(c) The wage rates applicable to a particular public works project are those in effect at the time the bid specifications are advertised.

(d) The wage rates proposed and the wage rates adopted are incorporated by reference in respective notices published in the Montana Administrative Register.

(e) The current building construction services rates are contained in the 2008 version of "The State of Montana Prevailing Wage Rates - Building Construction Services" publication.

(f) The current nonconstruction services rates are contained in the 2007 version of "The State of Montana Prevailing Wage Rates - Nonconstruction Services" publication.

(g) The current heavy and highway construction services rates are contained in the 2008 version of "The State of Montana Prevailing Wage Rates - Heavy and Highway Construction Services" publication.

(2) The commissioner maintains a mailing list of interested persons and agencies. A copy of any notice, proposed rate of wages, adopted rates, wages or other information are distributed to each addressee. All others may obtain a copy or be included on the mailing list upon request to the Office of Research and Analysis, Workforce Services Division, Department of Labor and Industry, 840 Helena Avenue, Helena, MT 59601. Copies of adopted wage rates are available at reproduction cost for a period of five years following their effective date.

(3) The standard prevailing rates of wages are hereby adopted and incorporated by reference. Copies of the rates are available upon request from the Office of Research and Analysis, Workforce Services Division, Department of Labor and Industry, 840 Helena Avenue, Helena, MT 59601, (406) 444-2430.

History: 2-4-307, 18-2-409, 18-2-431, 39-3-202, MCA; IMP, 18-2-401, 18-2-402, 18-2-403, 18-2-406, 18-2-411, 18-2-412, 18-2-422, 18-2-431, MCA; NEW, 1986 MAR p. 44, Eff. 1/16/86; AMD, 1986 MAR p. 1466, Eff. 8/29/86; AMD, 1986 MAR p. 1960, Eff. 11/29/86; AMD, 1987 MAR p. 1633, Eff. 9/25/87; AMD, 1988 MAR p. 2378, Eff. 12/1/88; AMD, 1990 MAR p. 1707, Eff. 9/1/90; AMD, 1991 MAR p. 1005, Eff. 6/28/91; AMD, 1992 MAR p. 2165, Eff. 8/15/92; AMD, 1993 MAR p. 1331, Eff. 7/1/93; AMD, 1994 MAR p. 1705, Eff. 7/1/94; AMD, 1995 MAR p. 1129, Eff. 7/1/95; AMD, 1996 MAR p. 1669, Eff. 7/1/96; AMD, 1997 MAR p. 1037, Eff. 7/1/97; AMD, 1998 MAR p. 2870, Eff. 9/25/98; AMD, 2000 MAR p. 1639, Eff. 7/1/00; AMD, 2001 MAR p. 444, Eff. 3/23/01; AMD, 2001 MAR p. 1102, Eff. 6/30/01; AMD, 2002 MAR p. 2446, Eff. 9/13/02; TRANS, from ARM 24.16.9007, Eff. 9/13/02; AMD, 2002 MAR p. 3416, Eff. 12/13/02; AMD, 2003 MAR p. 2867, Eff. 12/25/03; AMD, 2004 MAR p. 1780, Eff. 8/6/04; AMD, 2005 MAR p. 2064, Eff. 10/28/05; AMD, 2006 MAR p. 679, Eff. 3/10/06; AMD, 2006 MAR p. 2832, Eff. 11/10/06; AMD, 2007 MAR p. 968, Eff. 6/22/07; AMD, 2008 MAR p. 1471, Eff. 7/18/08.

PREVAILING WAGE

PROCESSING GUIDE

Prevailing Wage Program References:

Montana Code Annotated
House Bill Number 500 (57th Legislature; July 2001)
Senate Bill 188 (2003)
Administrative Rules of Montana (24.17.107 – 127)
USDOL ETA Memorandum Number 131 and 130

Heavy Construction

Adopted from Federal rates

Highway Construction

Adopted from Federal rates

Building Construction

Construction Contractor Registration List
Electricians – Unlimited License Contractors
Master Plumbers
Fire Prevention (Fire Suppression) Licensees
Unions

Non-construction

Montana Code Annotated 18-2-401
House Bill Number 500

HEAVY AND HIGHWAY CONSTRUCTION:

The rates established by the federal government are adopted by Montana once a year. These rates are available online through the DOL website (<http://www.gpo.gov/davisbacon/>).

The Davis-Bacon Wage Determinations contained on this web site are wage determinations issued by the U.S. Department of Labor under the *Davis-Bacon and related Acts*. The Wage and Hour Division of the U.S. Department of Labor determines prevailing wage rates to be paid on federally funded or assisted construction projects. **It is the responsibility of the federal agency that funds or financially assists Davis-Bacon covered construction** projects to ensure that the proper Davis-Bacon wage determination(s) is/are applied to such construction contracts(s). (See 29 CFR 1.5 and 1.6(b))

The wage determinations that are adopted are not changed until the next hearings process for adoption of the prevailing wage rates for Montana (per email from Mark Cadwallader, January 10, 2005). Interim decisions by the federal Department of Labor will be picked up during the annual update. When an enacted modification results in a noticeable increase in wages for the occupations a special hearing may be conducted to adopt rates more than once a year since this is not prohibited by the MCA.

BUILDING CONSTRUCTION:

Prevailing wages for construction are set through an annual survey. The survey period starts around the end of October.

The mailing list is derived from several sources. The bulk of the mailing list is derived from the Construction Contractor Registration List. The Montana Department of Labor and Industry, Employment Relations Division's Contractor Registration Unit maintains this list. Upon request, they will provide a copy of the database, and this can be used to build the larger part of the mailing list.

MCA 18-2-401 requires that "electrical contractors who are licensed under Title 37, chapter 68, master plumbers who are licensed under Title 37, chapter 69, part 3, and Montana contractors who are registered under Title 39, chapter 9 ..." shall be included in the survey. The electricians and plumbers are integrated into the mailing list by getting a copy of the registration database from the Business and Occupational Licensing Bureau's State Electrical Board and Board of Plumbers. Per agreement, we use the listing for Electrical Contractors (Unlimited License). This keeps the listing from including Limited licenses that are given to electrical contractors involved in residential construction. It was agreed during the 9 June 2006 public hearing that licensees for Fire Prevention (Fire Suppression - Sprinkler Fitters) will also be included since people registered here may not be registered on the Construction Contractors Registration list.

Separate Mailing: Unions are included in the survey primarily to provide copies of the bargaining agreements that set wage levels and fringe benefits. Some of the business agents will ensure members submit survey responses, and some will gather information for members. (Any company surveys submitted by a union agent must be checked against the received list to prevent duplicate entry of data. In the case of duplicate submission of the survey, the survey submitted by the company/business will be used in lieu of the one provided by the union.) This mailing list is drawn from a file containing union names and addresses. (W:/prevailing wage/2005/PW/05bc for latest copy)

The packet sent to each business/person/business agent on the mailing list should include:

- Survey letter
- Survey
- Return mail envelope
- List of occupations being surveyed
- Prevailing wage districts map

There are separate letters that go to the businesses/people and the business agents for the unions.

Another source for help and information is the associations formed by independent contractors. One association is the Treasure State Independent Electrical Contractors. Margaret is the contact, at (406) 431-9836 or fax at (406) 458-6091.

Website Help: A document called "Most Frequently Asked Questions About the Montana Prevailing Wage Survey" is available in the Prevailing Section of our website.

Setting Rates: Prevailing Wage:

The process for setting wage rates is contained in the Administrative Rules of Montana, Prevailing Wages For Public Works Projects (24.17.101 through 24.17.127). The basic process is as follows:

The department will survey those construction contractors who appear on a list of contractors registered pursuant to Title 39, chapter 9, MCA, as of October 22 of that year, with respect to those workers performing work according to commercial building codes. Senate Bill Number 188 (2003, Cocchiarella, Glaser, Golie, Lange) amended this to include "electrical contractors who are licensed under Title 37, chapter 68, [and] master plumbers who are licensed under Title 37, chapter 69, part 3..." Holders of Master Plumber licenses, Electrical – Unlimited licenses, and Fire Prevention (Suppression) licenses will be included in the survey database.

The survey year shall be the calendar year (1 January through 31 December).

For each district, a minimum of five or more workers must be reported for an occupation to set a rate.

If 50% or more of these workers receive the same wage, that rate will be the prevailing rate provided it does not exceed a collectively bargained rate for the occupation in that district. [MCA 18-2-402 (3): "In no instances where this part is applicable shall the standard prevailing rate of wage be determined to be greater than the applicable rate of wage in the area for the particular work in question as negotiated under existing and current collective bargaining agreements."] In the case of multiple CBAs within the district, the CBA containing the *lowest* bargained rate will be used.

If 50% or more of the workers **do not** receive the same wage, the weighted average wage rate, weighted by the number of workers, will be established as the prevailing rate, provided it does not exceed the collectively bargained rate for the occupation in that district.

If less than five workers are reported for the occupation within the district, the district prevailing wage rate for the district is the collectively bargained rate for the occupation in that district. (In the event that a CBA is available and a survey form completed by the union business agent/manager is available and the wage rates and/or the fringe benefits rates differ, the CBA rates will be used.)

If a collective bargaining agreement does not exist for the occupation, a weighed average wage rate weighted by the number of workers will be computed using data submitted from all contiguous districts [MCA 18-2-401 (13)(ii)]

If contiguous district data do not sum to a minimum of five workers, a statewide weighted average wage rate will be calculated for the occupation.

If a minimum of five workers is not reported for the occupation in the entire state, no rate will be established for the occupation. As set by precedent, the last adopted rates will continue to be used until a regularly scheduled survey produces sufficient results or a CBA is deemed to cover the occupation.

Fringe Benefits:

A fringe benefit rate for each occupation will be set for bona fide benefits paid or contributed to approved plans, funds, or programs for health insurance, life insurance, pension or retirement, vacations, holidays and sick leave [ARM 24.17.121 (3)]. Per email dated 3 December 2003 (McCormack/Schleicher) fringe benefits are accepted as being the amount paid **by the employer** for health insurance, life insurance, pension or retirement, vacation, holiday, and sick leave.

For each district, a minimum of five or more workers must be reported for an occupation to set a rate.

If 50% or more of these workers receive the same dollar value of fringe benefits, that rate will be the prevailing fringe benefit rate provided it does not exceed the collectively bargained rate for the occupation in that district. (A survey must have a fringe benefit rate and the number of employees at that rate to be used – “zero” or blank rates with employee numbers will not be used.)

If 50% or more of the workers **do not** receive the same fringe benefit rate, the weighted average fringe benefit rate, weighted by the number of workers, will be established as the prevailing rate, provided it does not exceed the collectively bargained rate for the occupation in that district.

If less than five workers are reported for the occupation within the district, the district prevailing fringe benefit rate for the district is the collectively bargained fringe benefit rate for the occupation in that district.

If a collective bargaining agreement does not exist for the occupation with less than five workers in a district, a weighed average fringe benefit rate weighted by the number of workers will be computed using data submitted from all contiguous districts (See 24.17.121 (d) (I-x)).

If contiguous district data do not sum to a minimum of five workers, a statewide weighted average fringe benefit rate will be calculated for the occupation.

If a minimum of five workers is not reported for the occupation in the entire state, no fringe benefit rate will be established for the occupation.

Non-Listed Occupations or Non-CBA Listed Occupations

Per the Public Hearings Comments, it was noted that the rates for Drywall Applicator should be derived from the wage and fringe benefit rates of the Carpenters Union CBA.

The CBA for the IBEW union is used for Electricians. The Department will no longer set a separate rate for Building Automation Controls Electrician (June 2006); therefore, wage rate setting for Building Automation Controls Electrician workers will use the rates set for electricians.

Telecommunications Equipment Installers rates will govern for work done on data, sound, voice, and security work. The occupation will include the old Communications Technicians and the old Fiber Optics Electrician, as well as fire and burglar alarms.

For Bobcat – skidsteer operators use rates for backhoe operators (Email 8 Aug 2001).

Pipefitters use the plumbers rates (Email 10 January 2003)

Excavators use same rate as backhoe operators (Email 3 April 2003)

Roll or batt insulation workers use the carpenter rates (Telephone call from John Andrew)

Painter's rates are used for Floor Layers (sound absorbing materials).

Timeline for Building Construction Survey

Approximate Dates:

1 September: Check supply of envelopes - #10 windows (generic) and #9 return (PW program specific with Business Reply Mail code). Reorder as needed.

1 October: Review survey materials and update as necessary (survey letter, survey form, PW districts map, and occupations listing). Deposit funds to PW Business Reply Mail postal account to cover costs (amount as needed).

23 October: Request copy of construction contractors registration list. Request copy of master plumber and electrical contractors (unlimited license) lists and fire prevention (suppression) list.

5 November: Complete merging and formatting of survey mailing list.

- 10 November: All survey materials over to Print and Mail Bureau.
- 21 November: Survey materials mailed.
- 1 December: Begin data entry of returned surveys.
- 15 January: "Submit By" date for survey. Close for surveys not postmarked by this date.
- 31 January: Complete data entry of returned surveys.
- 28 February: Complete validity review of data and comparison of wage rates to CBA rates.
- 1 March: Request public hearing date.

Documentation:

Adopted wage rates must be available for five (5) years following their effective date, in accordance with ARM 24.17.127. Therefore, it is recommended that all surveys forms, electronic files, etc, for a particular year be retained on computer hard drive, disk, or in storage and be destroyed or deleted when appropriate.

NON-CONSTRUCTION SERVICES

These rates are set every other year. The mailing list is derived from a query of the UI records for those industries that contain Standard Occupational Classification occupation codes associated with the surveyed occupations. The Micro Matrix (OES/LAUS projections) system is used to create the listing. The process for setting the wage rates is the same as for building construction.

DATA ENTRY GUIDELINES

Information from the survey forms is entered into either a spreadsheet format or as a Microsoft Access database.

For fringe benefits estimation, data for number of employees is only entered if there is a corresponding amount for the hourly fringe benefit amount. If the fringe benefit amount on the survey is listed as zero, or not applicable, no entry will be made.

PUBLIC HEARING

Once the rates are established, a request for a public hearing date is submitted to the department legal office. The notice will be published in the Montana Administrative Register. The public hearing notice must be **mailed** to everyone on the "Interested Parties" list. The mailing lists are part of the consolidated bureau mailing lists maintained by the Administrative Assistant. The lists are maintained by type of construction, i.e., heavy, highway, building, and nonconstruction. The copy of the notice should be mailed out early enough to give potential attendees ample notice.

A representative from the bureau will attend the hearing. This person should carry copies of the proposed rates (publications), copies of the public hearing notice, and copies of any other materials to be considered during the public hearing.

The public hearing is taped and a copy of the tape (or transcript) will be provided to the bureau. This is used to summarize the comments and provide input for the department's reply to each comment. A draft of the comments and replies should be sent to the legal department as soon as it is finished.

The public comment period runs for thirty days and the public hearing will be scheduled sometime within that thirty day period. During this time frame, the public can make comments by email or mail and they must be included in the draft of the department's replies to the public hearing session comments. Material submitted during this period must be considered for inclusion in setting the prevailing wage rates **if** the material covers actions occurring during the survey year. "Material" has been judged to include collective bargaining agreements and survey forms.

FINAL RATES

New data supplied during the public hearing and the public comment period will be considered and used as appropriate to change the proposed rates. Once this is done, a final draft of the publications should be forwarded to the legal office and the compliance office for review.

The intent to adopt these final rates will be published in the Montana Administrative register. The effective date for the rates will be the **day after** the publication date of the register.

SURVEY OCCUPATIONS – JUNE 2006

Boiler Makers

Brick Mason, Block Mason

Carpenters

Carpet Installers

Cement Mason, Concrete Finishers

Construction Laborers (Groups 1-4)

Construction Equipment Operators (Groups 1-7) (Includes Crane Operators)

Drywall And Ceiling Tile Installers

Electricians

Elevator Installers and Repairers

Floorlayers (Except Carpet, Wood, and Hard Tile)

Glaziers

Heating and Air Conditioning Mechanics And Installers

Insulation Workers - Mechanical (Pipe/Ductwork)

Ironworkers (Structural Steel and Reinforcing)

Millwrights

Painters, Paperhangers

Pilebucks

Plasterers and Stucco Masons

Plumbers, Pipefitters And Steamfitters

Roofers

Sheet Metal Workers

Sprinkler Fitters

Stone Masons

Tapers

Teamsters (Group 2)

Telecommunications Equipment Installers (Sound, Voice, Data, Security)

Tile and Marble Setters

PLEASE SEE REVERSE SIDE FOR DEFINITIONS OF LABORER GROUPS,
CONSTRUCTION EQUIPMENT OPERATORS, CRANE AND TOWER
OPERATORS, AND TEAMSTERS

Construction Equipment Operators – Group 1 : No rate set

Construction Equipment Operators – Group 2: Asphalt Tender, Backhoe Operator, Bulldozer Operator, Concrete paving Machine Operator, Fork Truck Operator, and Oiler

Construction Equipment Operators – Group 3: Motor Grader Operator, Front End Loader Operator, Road Roller, Scraper Operator, Truck Crane Operator, Water Well Driller, Cranes under 24 Tons

Construction Equipment Operators - Group 4: Asphalt Paving Machine Operator, Plant Operator, Cranes 24- 44 Tons

Construction Equipment Operators - Group 5: Cranes 45-74 Tons

Construction Equipment Operators - Group 6: Cranes 75-149 Tons

Construction Equipment Operators - Group 7: Cranes 150+ Tons

Laborers – Group1: Flagperson

Laborers- Group 2: General Labor, Burning Bar, Bucket Man, Carpenter Tender, Caisson Worker, Cement Mason Tender, Cement Handler (dry), Chuck Tender, Choker

Setter, Concrete Worker, Curb Machine-lay Down, Crusher and Batch Worker, Form Handler, Form Stripper, Heater Tender, Pipe Wrapper, Pot Tender, Powderman Tender, Rail and Truck Loaders and Unloaders, Riprapper, Sign Erection, Guardrail and Jersey rail, Spike Driver, Spike Jumper, Signalman, Tail Hoseman, Tool Checker and Houseman and Traffic Control Worker.

Laborers- Group 3: Concrete Vibrator, Dumpman (Grademan), Equipment Handler, Geotextile and liners High-Pressure Nozzleman, Jack hammer (Pavement Breaker) Non-Riding Rollers, Pipelayer, Posthole Digger (Power) Power Driven Wheelbarrow, Rigger, Sandblaster, Sod Cutter-Power and Tamper.

Laborers- Group 4: Hod Carrier, Water well Laborer, Blaster, Wagon Driller, Asphalt Raker, Cutting Torch, Grade Setter, High- Scaler. Power Saws (Filler& Concrete) Powerman, Rock & Core Drill, Track or Truck Mounted Wagon Drill and Welder including air Arc.

Teamsters – Group 2: Dump Truck Driver, Heavy Truck Driver, Light Truck Driver, Road Oiling Truck Driver, Tractor Trailer Truck Driver, Warehouse Worker, and Water Truck Driver

OCCUPATIONS:	UNIONS:	NOTES:
Boilermakers	Intl Brotherhood of Boilermakers Local 11	Statewide Agreement
Brick Mason, Block Mason	IUB&AC Local 3	Statewide
Carpenters	PNRCC Local 28 PNRCC Local 112 PNRCC Local 153 PNRCC Local 286 PNRCC Local 557 PNRCC Local 911 PNRCC Local 1172 PNRCC Local 2225	District 2 District 3 District 5 Districts 4, 5, 7 Districts 3, 6 Districts 1, 2 Districts 7, 8, 9, 10 District 1 Multi-union multi-district agreements exist
Carpet Installers	IUPAT Local 260 IUPAT Local 720 IUPAT Local 1922	[Great Falls] [Butte] [Billings]
Cement Mason, Concrete Finishers	IUB&AC Local 3	Statewide
Construction Laborers (Groups 1-4)	MT District Council of Laborers	Multiple contracts with individual businesses
Construction Equipment Operators (Groups 1-7) (Includes Crane Operators)	IUOE Local 400	Statewide
Drywall And Ceiling Tile Installers	PNRCC Local 28 PNRCC Local 112 PNRCC Local 153 PNRCC Local 286 PNRCC Local 557 PNRCC Local 911 PNRCC Local 1172 PNRCC Local 2225	District 2 District 3 District 5 Districts 4, 5, 7 Districts 3, 6 Districts 1, 2 Districts 7, 8, 9, 10 District 1 Multi-union multi-district agreements exist
Electricians	IBEW Local 768 IBEW Local 233 (Butte) IBEW Local 233 (Helena & Great Falls) IBEW Local 532	Districts 1, 2 Districts 3, 5 Districts 4, 5, 7, 9 Districts 6, 8, 9, 10
Elevator Installers and Repairers	IUEC	Statewide
Plumbers, Gas Fitters, and Welders Wood, and Hard Tile)	IUPAT Local 260 IUPAT Local 720 IUPAT Local 1922	[Great Falls] [Butte] [Billings]
Glaziers	IUPAT Local 260	[Great Falls]

	IUPAT Local 720 IUPAT Local 1922	[Butte] [Billings]
Heating and Air Conditioning Mechanics And Installers	[Plumbers & Pipefitters] [Sheetmetal Workers]	
Insulation Workers - Mechanical (Pipe/Ductwork)	Intl Assoc of Heat & Frost Insulators & Asbestos Workers Local 82	Statewide
Ironworkers (Structural Steel and Reinforcing)	IW Local 14 IW Local 841	Districts 1, 2 Districts 3 - 10
Millwrights	PNRCC Local 28 PNRCC Local 112 PNRCC Local 153 PNRCC Local 286 PNRCC Local 557 PNRCC Local 911 PNRCC Local 1172 PNRCC Local 2225	District 2 District 3 District 5 Districts 4, 5, 7 Districts 3, 6 Districts 1, 2 Districts 7, 8, 9, 10 District 1 Multi-union multi-district agreements exist
Painters, Paperhangers	IUPAT Local 260 IUPAT Local 720 IUPAT Local 1922	[Great Falls] [Butte] [Billings]
Pilebucks	PNRCC Local 28 PNRCC Local 112 PNRCC Local 153 PNRCC Local 286 PNRCC Local 557 PNRCC Local 911 PNRCC Local 1172 PNRCC Local 2225	District 2 District 3 District 5 Districts 4, 5, 7 Districts 3, 6 Districts 1, 2 Districts 7, 8, 9, 10 District 1 Multi-union multi-district agreements exist
Plasterers and Stucco Masons	OPCMIA Local 119	Statewide
Plumbers, Pipefitters And Steamfitters	UA Local 30 UA Local 41 UA Local 459	Districts 7, 8, 9, 10 Districts 3, 4, 5, 6, 9 Districts 1, 2
Roofers	UURWA Local 189 UURWA Local 229 UURWA Local 250	Districts 1, 2 [Billings] [Butte]
Sheet Metal Workers	SM Workers Local 103	Statewide
Sprinkler Fitters	Sprinklerfitters Local 669	Statewide
Stone Masons	IUB&AC Local 3	Statewide
Tapers	OPCMIA Local 119	Statewide
Teamsters (Group 2)	Teamsters Local 2	Statewide

Telecommunications Equipment Installers (Sound, Voice, Data, Security)	IBEW Local 768 IBEW Local 233 (Butte) IBEW Local 233 (Helena & Great Falls) IBEW Local 532	Statewide Sound & Communications Agreement
Tile and Marble Setters	IUB&AC Local 3	Statewide